



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 3, 2011

Stefan C. Passantino
McKenna Long & Aldridge, LLP
1900 K Street, N.W.
Washington, D.C. 20006

RE: MUR 6447
Steele for Maryland, Inc., and
Elisabeth S. Rubin, in her official
capacity as Treasurer

Dear Mr. Passantino:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Steele for Maryland, Inc., and Elisabeth S. Rubin, in her official capacity as Treasurer ("Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On December 14, 2010, the Commission found reason to believe that the Committee knowingly and willfully violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.4(c)(2), and violated 2 U.S.C. §§ 434(b), 441a(f), 441i(e)(1)(A), and 11 C.F.R. § 110.3(d), provisions of the Act or the Commission's regulations. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

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We look forward to your response.

On behalf of the Commission,



Cynthia L. Bauerly
Chair

Enclosures
Factual and Legal Analysis

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I. GENERATION OF MATTER

II. FACTUAL AND LEGAL ANALYSIS

In 2006, Michael Steele was a Senate candidate in the Maryland Primary and General Elections and the Lieutenant Governor of Maryland. Steele for Maryland, Inc., and Elisabeth S. Rubin, treasurer ("Federal Committee"), was his authorized federal campaign committee while Michael for Maryland and Belinda Cook, treasurer ("State Committee"), was his authorized state campaign committee.

Monica Turner, Steele's sister, volunteered on her brother's federal and state campaigns by stuffing envelopes, appearing in advertisements, providing monetary support, and hosting fundraisers. She worked with Michael Levitt, the campaign manager and others on the Federal Committee campaign staff.

Paul Ellington was Steele's chief of staff in the lieutenant governor's office and had known him since 1994 through various Republican Party groups. Ellington did not have a formal position with the Senate campaign, but he had worked on Steele's election since the exploratory phase by helping Steele choose a campaign manager and consulting firm, interacting

with volunteers, and providing input on which interviews Steele should give. Ellington also was involved in campaign strategy and traveled with Steele on fundraising trips.

Belinda Cook is a long-time assistant to Steele and worked on his Senate campaign in various roles.

1. Monica Turner's Payments of Expenses for Steele Fundraisers

a. July 8, 2006, Fundraising Event

In 2006, Monica Turner hosted two fundraisers at her Bethesda, Maryland, home to support Steele's Senate campaign. On July 8, 2006, prior to the primary election, Turner and Shawnda Wilkinson, the co-chair of Women of Steele, co-hosted a fundraising event. The invitation and response form state, "Paid For By Steele for Maryland, Inc." The invitation requests that contribution checks be made payable to "Steele for Maryland, Inc." Turner paid for the following Federal Committee expenses in connection with the July fundraiser:

Table One: Expenses for July Event

PAYEE	PURPOSE	AMOUNT	METHOD
Class Act Catering	Catering services	\$5,462.35	Check #6110 ¹
Rosa Vargas	Event help	\$250	Check #6111
Joy Sayoto	Event help	\$150	Check #6112
Roland [illegible]	Event security	\$250	Check #6114
Autopark Valet	Event valet service	\$466	Visa credit card
TOTAL		\$6,578.35	

Approximately 80 people attended the July 8, 2006, fundraiser and contributed \$44,450.

¹ The checks listed in Tables One, Two and Three refer to checks drawn on Monica Turner's personal checking account.

b. October 21, 2006, Fundraising Event

On October 21, 2006, prior to the general election, Turner hosted an event billed as a combination birthday party/fundraiser for Steele. The invitation and response form state, "Paid for By Steele for Maryland, Inc." The return address shows Turner's name and the campaign headquarters address. Turner paid for the following expenses in connection with the Oct. 21, 2006, fundraiser:

Table Two: Expenses for October Event

PAYEE	PURPOSE	AMOUNT	METHOD
Class Act Catering	Catering services	\$7,000	Check #6710
Rosa Vargas	Event help	\$300	Check #6711
[Illegible]	Event help	\$300	Check #6714
[Illegible]	Event security	\$250	Check #6713
TOTAL		\$7,850	

Approximately 95 people attended the October fundraiser and contributed \$48,570.

2. Other Expenses Paid by Turner

The Federal Committee was apparently low on funds throughout Fall 2006, and Turner paid for additional services and materials procured by it. The following are other expenditures paid by Turner on behalf of the Federal Committee:

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Table Three: Additional Expenses Paid by Turner

PAYEE	PURPOSE	DATE PAID ²	AMOUNT	METHOD
Mike Richardson	Radio ad sound editor	Oct. 5, 2006	\$300	Check #6621
Eric Taylor	Email advertising blast	Oct. 10, 2006	\$1,500	Check #6701
Lorraine Treanor	Campaign office help	Oct. 13, 2006	\$800	Check #6705
Eric Taylor	Email advertising blast	Nov. 8, 2006	\$3,000	Check #6748
Eric Taylor	Email advertising blast	Nov. 8, 2006	\$2,000	Check #6750
Mike Richardson	Radio ad sound editor	Nov. 20, 2006	\$150	Check #6783
TOTAL			\$7,750	

Lastly, Turner made two cash contributions to the Federal Committee. On October 28, 2006, Turner gave Ellington \$6,000 in cash to purchase campaign "needs" such as telephones and advertising. On November 4, 2006, Turner wrote a check to herself for \$8,500, cashed it, and gave the money to Ellington because the campaign needed to reserve radio advertising spots before the election.

Table Four: Cash Contributions

PURPOSE	DATE	CASH AMOUNT
"Campaign needs"	Oct. 28, 2006	\$6,000
Radio airtime	Nov. 4, 2006	\$8,500
TOTAL		\$14,500

² The dates in this table refer to the payment date.

In sum, Turner made in-kind and cash contributions to Steele and his Federal Committee totaling \$36,678.35. The Federal Committee does not dispute that it accepted these in-kind and cash contributions. Response to FEC at 1-2. The Federal Committee did not report any contribution from Turner in its FEC disclosure reports. The Federal Committee also did not report any debt in connection with Turner's contributions.

3. Reimbursing Turner

The Federal Committee states that around the time of the July 2006 fundraiser, Steele campaign staff told Turner that she would be reimbursed for amounts beyond the maximum contribution limit. Turner, however, may not have been approached about reimbursement until the close of the election campaign when Ellington and/or Cook informed Turner that the Federal Committee had a legal obligation to reimburse her for all the expenses she incurred on behalf of the campaign. Turner states that Ellington suggested it would be beneficial to the campaign if the reimbursement check were made out to Brown Sugar Unlimited, a corporation owned by Turner, and either he or Belinda Cook asked Turner to create the invoices. Ellington states, however, that he was unaware that Turner had a company in that name. Brown Sugar, in fact, had been dissolved as a Maryland corporation in March 2006. According to the Federal Committee, although Turner had signed articles of cancellation for Brown Sugar with the State of Maryland, Turner believed that the corporation was dormant, not dissolved. Turner said she refused to create invoices from Brown Sugar, but she said she would send an email itemizing her expenses. On November 13, 2006, Turner sent an email to Cook and Steele listing her expenses, minus the maximum individual contribution amount for both elections (\$4,200), for a total of \$33,462. Sometime thereafter, the Federal Committee sent Turner copies of three purported

invoices from Brown Sugar Unlimited. The invoices, dated December 22, 2006, requested payment from the Federal Committee, as follows:

Table Five: Brown Sugar Unlimited "Invoices"

Invoice #1	"July and October Fundraising Event"	\$14,762.35
Invoice #2	"September 12 – November 7, 2006 Consulting Services, Urban Campaign Strategy"	\$18,000.00
Invoice #3	"Web Site Consulting Services, Urban Web Site Advertising Design"	\$4,500.00
TOTAL		\$37,262.35

On February 6, 2007, the Federal Committee wrote a check to Brown Sugar Unlimited for \$37,262.35.³ The Committee disclosed the payment to Brown Sugar on its 2007 April Quarterly Report. Turner deposited the reimbursement check into her personal bank account. The Federal Committee does not address why it wrote the check to Brown Sugar rather than Turner.

4. Payments by State Committee

Steele's State Committee paid for services incurred by Steele's Federal Committee. Specifically, two printing shops, Fern Masters and GOP Shoppe, produced promotional materials such as yard signs, buttons, bumper stickers, and mailings for Steele's 2006 Senate campaign. According to Ellington, the Federal Committee did not have enough funds to pay the \$29,973.30 GOP Shoppe bill. Steele and the Federal Committee say that the State Committee paid the bills erroneously and listed them as in-kind contributions to the Maryland Republican Party. Response to FEC at 2. The Federal Committee had GOP Shoppe submit an invoice to Steele's State Committee so the bill could be paid with the State Committee's funds. Thus, on or

³ The Federal Committee did not deduct the maximum permissible contribution as Turner requested.

about February 17, 2007, the State Committee paid GOP Shoppe \$29,973.30. *See*

<http://mdelections.org/campaign-finance/advanced-search/expenditures?acctno=A3317>. On

April 18, 2007, the State Committee paid Form Masters \$7,707. *See*

<http://mdelections.org/campaign-finance/advanced-search/expenditures?acctno=A3317>. In

March 2009, the Federal Committee paid the vendors, the vendors reimbursed the State

Committee, and the Federal Committee amended seven affected disclosure reports to show that the Federal Committee had outstanding debts to the vendors and that the Federal Committee ultimately paid the vendors. Ellington believes that he and Steele discussed invoicing the state campaign for the federal services.

B. Legal Analysis

1. Excessive In-Kind and Cash Contributions and Inaccurate Disclosure

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits how much an individual may contribute to a candidate. 2 U.S.C. § 441a. In 2006, an individual could not contribute more than \$2,100 per election per candidate. 2 U.S.C. § 441a(a)(1)(A).

A "contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."

2 U.S.C. § 431(8)(A)(i). The term "contribution" does not include "the use of real or personal property ... and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate ... on the individual's residential premises ... to the extent that the cumulative value ... does not exceed \$1,000 with respect to any single election, and ... does not exceed \$2,000 in any calendar year." 2 U.S.C. § 431(8)(B)(ii); 11 C.F.R. §§ 100.75 and 77.

Candidates and committees are prohibited from knowingly accepting excessive contributions.

2 U.S.C. § 441a(f). Cash contributions that in the aggregate exceed \$100 are prohibited.

2 U.S.C. § 441g. Committees must return cash contributions over \$100 to the contributor.

11 C.F.R. § 110.4(c)(2).

Each treasurer of a political committee must file reports of receipts and disbursements with the Commission. 2 U.S.C. § 434(a); 11 C.F.R. § 104.1. These reports must accurately reflect the committee's cash on hand, receipts, and disbursements. 2 U.S.C.

§§ 434(b)(1), (2) and (4). Commission regulations also contain special disclosure requirements for contributions received during certain time frames before an election ("48-hour notice requirement"). Senate campaign committees are required to file a notice with the Secretary of the Senate within 48 hours of receiving a contribution of \$1,000 or more less than 20 days before an election but more than 48 hours before the election. 11 C.F.R. § 104.5(f).

The Federal Committee knowingly violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.4(c)(2) by accepting excessive in-kind contributions related to radio advertising, email advertising and campaign office staff, as well as cash contributions from Turner totaling \$14,500. In addition, the Federal Committee violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions from Turner related to the July and October 2006 Senate fundraisers. Although an individual acting in the capacity of fundraiser may extend credit to a candidate, political committee or another person provided that the credit is extended in the ordinary course of business, 11 C.F.R. § 116.3, that does not appear to be the case here. In total, Turner contributed \$36,678.35. Subtracting the maximum allowable contribution of \$4,200 for the 2006 primary and general election combined, and subtracting \$1,000 per each in-home event results in the Federal Committee accepting \$30,478.35 (\$36,678.35 - \$6,200 = \$30,478.35) in excessive contributions.

The Federal Committee acknowledges that it accepted the excessive contributions at issue in this matter. The Federal Committee attempts to portray the violations as "technical" reporting violations and argues that it complied with the Act by reimbursing Turner in February 2007 and disclosing the reimbursement in its April 2007 Quarterly Report as a payment to Turner's company, Brown Sugar Unlimited. Turner's reimbursement by the Federal Committee more than six months after Turner started to make in-kind contributions to the Committee, while a mitigating factor, does not cure the fact that the contributions were excessive when made and accepted.

Moreover, the violations by the Federal Committee were knowing and willful with respect to its acceptance of Turner's payment of certain of the Federal Committee's expenses related to its radio and e-mail advertising and campaign office staff, as well as Turner's cash contributions. To establish a knowing and willful violation, there must be knowledge that one is violating the law. See *FEC v. John A. Drameci for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990).

Here, the Federal Committee knowingly accepted payments made by Turner for services related to radio and e-mail advertising and campaign staff, as well as cash contributions of \$6,000 and \$8,500, which on their face, violated the individual contribution limit and the cash contribution prohibition. Moreover, the Federal Committee acknowledged informing Turner that her in-kind and cash contributions were excessive, and that she would need to be reimbursed.

The Federal Committee also failed to report any contributions from Turner and inaccurately characterized the February 2007 reimbursement to Turner as a payment to Brown

Sugar Unlimited. This caused the Federal Committee's disclosure reports to be inaccurate commencing with the 2006 Pre-Primary Report. Certain of Turner's contributions received by the Federal Committee between October 18, 2006, and November 4, 2006, also should have been disclosed in 48-hour notices of contributions. *See supra* Tables 2-4. The Committee acknowledges that it failed to report in-kind and cash contributions from Turner. Furthermore, although the Federal Committee was aware that Turner was the true source of the contributions, the Federal Committee appears to have purposely mischaracterized the reimbursement to Turner as a payment to Brown Sugar Unlimited.

Therefore, there is reason to believe that Steele for Maryland, Inc., and Elisabeth S. Rubin, in her official capacity as treasurer, knowingly and willfully violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.4(c)(2) by accepting excessive in-kind contributions related to radio and email advertising and campaign office staff, as well as accepting cash contributions, and reason to believe that Steele for Maryland, Inc., and Elisabeth S. Rubin, in her official capacity as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions related to the July and October 2006 fundraisers and 2 U.S.C. § 434(b) with respect to its reporting of these contributions.

2. State Committee's Payments for Federal Committee's Expenses

Federal candidates and officeholders, or entities directly or indirectly established, financed, maintained or controlled by them, are prohibited from soliciting, receiving, directing, transferring or spending funds in connection with a Federal election unless the funds are subject to the limitations, prohibitions and reporting requirements of the Act. 2 U.S.C. § 441i(e)(1)(A). Further, Commission regulations provide, in material part, that transfers of funds or assets from a candidate's non-federal campaign committee to his or her principal campaign committee for a

federal election are prohibited. See 11 C.F.R. § 110.3(d). Maryland law permits state political committees to accept contributions from corporations, see MD. CODE ANN., ELEC. LAW § 13-226 (2010), and the State Committee's reports disclose the receipt of contributions from them. Thus, if State Committee funds were used to pay federal campaign expenses, the Federal Committee would have received prohibited in-kind contributions from the State Committee, in violation of 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d).

The Federal Committee had the State Committee pay debts owed to Form Masters and GOP Shoppe, two vendors who provided services to the Federal Committee. The Federal Committee does not deny that the State Committee paid the Federal Committee's bills. The Federal Committee and Steele say it was a mistake that was later corrected, albeit two years later, while Ellington states that having the State Committee pay the vendors was intentional. Either way, the Federal Committee and State Committee spent \$37,680.30 in connection with a federal election with funds that were not subject to the limitations, prohibitions, and reporting requirements of the Act.

Therefore, the Commission has determined to find reason to believe that Steele for Maryland, Inc., and Elisabeth S. Rubin, in her official capacity as treasurer violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d).